

INFO

ER 85-4937

Office of Legislative Liaison**Routing Slip**

TO:		ACTION	INFO
STAT	1. D/OLL		X
	2. DD/OLL		X
	3. Admin Officer		
	4. Liaison		
	5. Legislation		X
	6. []		X
	7. []		X
	8. []		
	9. []		
	10. []		
SUSPENSE		Date	

Action Officer:
Remarks:

GJ 18 Dec 85
Name/Date

EXECUTIVE SECRETARIAT**ROUTING SLIP**

TO:

		ACTION	INFO	DATE	INITIAL
1	DCI		X+		
2	DDCI		X		
3	EXDIR				
4	D/ICS				
5	DDI		X		
6	DDA				
7	DDO		X		
8	DDS&T				
9	Chm/NIC				
10	GC				
11	IG				
12	Compt				
13	D/OLL		X		
14	D/PAO				
15	D/PERS				
16	VC/NIC				
17	NIO/USSR		X		
18	D/SOVA/DI		X		
19	C/ACIS/DI		X		
20	NTO/SP		X		
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SUSPENSE _____

Date _____

Remarks

STAT

Executive Secretary

17 DEC 85

Date

3637 (10-81)

OLL FILE <i>White House</i>	Excluding Register
Recpt # <i>Record</i>	85- 4937
United States Senate	
WASHINGTON, DC 20510	

December 10, 1985

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

The fundamental issue affecting American national security is whether the United States should continue to comply with the unequal, unratified SALT II Treaty, or finally allow this still proposed Treaty to expire on December 31, 1985, under its own terms. Your decisive personal leadership is required on this issue.

Your own position opposing the "fatally flawed" SALT II Treaty was made quite clear during the 1980 Presidential campaign. As the attached annex indicates, we have just learned that you sought the withdrawal of the proposed SALT II Treaty at a National Security Council meeting on May 21, 1981 but that the State Department worked to maintain the existing Carter Administration "interim restraint, no-undercut" policy of complying with SALT II. In June, 1982, the State Department's defiance of your request went even further, and the State Department reportedly converted SALT II into an even more unequal arrangement tantamount to a secret Executive Agreement. This action also defied the Jackson Amendment requirement for equality, as well as the Constitution and the Arms Control and Disarmament Act. Now we have learned from news reports of a briefing by Secretary of State George Shultz that the State Department has gone still further, and has agreed with the Soviets to extend indefinitely this unratified Treaty even after it expires.

We agree with your long-standing statements and with the report of the Senate Armed Services Committee that U.S. SALT II compliance has not been in the national security interest of the United States. Continued U.S. SALT II compliance will require the U.S. to destroy 2,500 more warheads on highly survivable Poseidon submarines. Such massive U.S. unilateral disarmament under SALT II will seriously undercut all

remaining military, economic, and political arguments for your own SDI and Strategic Modernization Program. We therefore request that you advise us as to whether you will allow SALT II to expire on December 31, 1985.

Very respectfully,

William W. Waller
Steve Symms
Alan F. Jones
James A. M. Cluse

Annex: Analysis of the Constitutional
Status and Military Effects of
the SALT II Treaty

Copies to: Secretary of Defense
Secretary of State
Chairman, JCS
Director, CIA
Director, ACDA

ANNEX: Analysis of the Constitution Status and Military Effects of the SALT II Treaty

The fundamental issue affecting American national security is whether the U.S. should continue to comply with the unequal, unratified SALT II Treaty, or finally allow this still proposed Treaty to expire on December 31, 1985 under its own terms. Your decisive personal leadership is required on this issue.

Your SALT II Position

Your own position on the proposed SALT II Treaty was made quite clear during the 1980 Presidential campaign. You repeatedly stated that SALT II was "fatally flawed." You also stated on October 30, 1980 that "SALT II is illegal... because we're not equal in this Treaty." You even stated in May 1980 that :

"I believe the SALT II Treaty should be withdrawn, and I especially believe the U.S. should not abide by its terms prior to ratification. To abide by the terms of the proposed agreement would violate article 33 of the Arms Control and Disarmament Act of 1961."

The Senate Armed Services Committee agreed with you when it determined in December, 1979 that the proposed SALT II Treaty is unequal, unbalanced, destabilizing, and "not in the national security interest of the United States."

Former President Jimmy Carter even characterized the 1980 Presidential Election as a "national referendum" on his proposed SALT II Treaty, but he lost.

Burt's Insubordination

Accordingly, we obviously expected that one of your first acts as President would have been to withdraw the proposed SALT II Treaty from the Senate. We are pleased to learn now that early in your Administration you indeed ordered this done, but you were thwarted by State Department appeasement. The Washington Times (November 15, 1985) reports excerpts from a July 16, 1981 secret memorandum from Richard Burt, then Director of Politico-Military affairs at the State Department, to then Secretary of State Haig. Burt wrote:

"As you told me following the May 21, 1981 National Security Council Meeting, the President stated a preference for withdrawing the SALT II Treaty, and when and how to do so was briefly discussed there and, subsequently, in the interagency meeting."

Burt then insubordinately added:

"My own preference would be to avoid withdrawing the SALT II Treaty from the Senate."

Richard Burt went on to outline to Secretary Haig a detailed plot to countermand what he again acknowledged to be your own "Presidential preference." Burt's plot succeeded, and your own clearly expressed "Presidential preference" for withdrawing the proposed SALT II Treaty from the Senate was thwarted. In place of your own clearly expressed order, the State Department substituted the existing Carter "no-undercut, interim restraint" policy of U.S. compliance with the unratified SALT II Treaty. But you stated in May, 1980 that the existing Carter interim restraint policy defied the Treaty-making powers of the Senate and Section 33 of the ACDA Act.

The SALT II Secret Agreement

More significantly, in June, 1982, the State Department went further, and even secretly "agreed" with the Soviets that their forces could be "capped" at their falsely claimed higher, June 1979 level of 2,504 Strategic Nuclear Delivery Vehicles, without, however, the U.S. having the right to the same number. This State Department concessionary, secret agreement converted the SALT II Treaty into an even more unequal agreement than before. This explicit U.S. agreement to unequal levels also was inconsistent with the 1972 Jackson Amendment to SALT I, requiring equal levels of forces in SALT II, and because it secretly constrained U.S. forces by Executive Agreement alone, it also was inconsistent with the Treaty-making power of the Constitution and contrary to Section 33 of the Arms Control and Disarmament Act. Finally, because the secret agreement was not conveyed to Congress, the action was a blatant violation of the reporting requirements of the Case Act.

As we have already informed you repeatedly, we will resolutely pursue Constitutional, legal, and legislative remedies against the State Department if U.S. compliance with the unequal, unratified SALT II Treaty extends past its expiration on 31 December, 1985.

SALT II Extension

Mr. President, we therefore read with alarm the following from the lead story of The New York Times on November 23, 1985:

"A senior State Department official said today that the United States had told the Soviet Union before the Geneva Summit meeting that it would indefinitely continue its policy of not undermining the 1979 [SALT II] arms treaty..."

The Washington Post of November 27, 1985 quotes you as saying that you did discuss SALT II personally with Gorbachev, but that you "made it plain" to the Soviets "that we certainly were not going to bind ourselves to something that was not equally binding on them." The point is, however, that the State Department has illegally bound the U.S. for six years already.

Now the State Department's early-November, 1985-Moscow commitment to indefinitely extend the unratified SALT II Treaty defies your own preferences, the 32 plus confirmed Soviet SALT violations, the treaty-making powers of the Senate, and the national security interests of the country. It is dangerous enough that the U.S. has illegally complied with an unratified, unequal, proposed treaty for six years almost to its expiration, and even after the State Department secretly converted it into an even more unequal and illegal Executive Agreement. But to indefinitely extend this unratified, proposed treaty is both irresponsible and a usurpation of power by the State Department. It is also extremely dangerous to American national security, and as such constitutes U.S. appeasement and unilateral disarmament.

Mr. President, you have already confirmed 11 Soviet violations of SALT II to the Congress, and several more have recently been reported. You have already confirmed a total of 32 Soviet SALT Break Out violations to Congress. We respectfully remind you that during your May 1985 trip to Europe you correctly stated:

"There is considerable evidence now that compliance with SALT II has been rather one-sided, and if it has been, there is no need for us to continue."

Moreover, on March 27, 1984, you also correctly stated:

"We had two treaties--the SALT treaties--the SALT Treaty I and SALT Treaty II. And SALT Treaty II was not ratified by the Senate, I'm pleased to say. No one has paid any attention to the fact that under those two treaties--the Soviet Union under SALT I, from that time on added 7,950 nuclear warheads to its arsenal, and 3,850 of those were added since after everyone signed SALT II."

Defense Secretary Weinberger agreed, when he stated on December 20, 1984:

"The Soviet Union has built more of the big nuclear warheads capable of destroying U.S. missiles in their concrete silos than we initially predicted they would build, even without any SALT agreement. We now confront

precisely the situation that the SALT process was intended to prevent."

Danger of SALT II

The Soviet Union has built up its strategic forces during the period of the 1979 SALT II Treaty through the end of 1985 to a level much higher than the Joint Chiefs of Staff predicted in 1978 that the Soviet Union would have by the end of 1985, even if no SALT II Treaty had been signed. This is because Soviet Strategic Nuclear Delivery Vehicles have increased by about one fourth, and Soviet strategic nuclear warheads have more than tripled by the end of 1985. In contrast, the U.S. has strategic forces by the end of 1985 even lower than the JCS predicted in 1978 that the U.S. would have by the end of 1985, even within SALT II constraints.

Let SALT II Expire

Your 1984 and 1985 SALT II statements suggest that you still believe in your clearly expressed May 21, 1981 "Presidential preference" to withdraw the SALT II Treaty from the Senate, as you repeatedly promised during the 1980 campaign. We urge you now to finally over-rule consistent insubordinate appeasement efforts by the State Department to thwart your long standing preferences and promises, and even to thwart the Constitution, and allow the proposed SALT II Treaty to expire under its own terms on December 31, 1985. You already have strong Senate support for this action, because on June 20, 1984, 99 Senators voted on a roll call vote to approve a Symms amendment reaffirming the fundamental principle of international law that if the Soviets are violating SALT II, the U.S. should not be bound by it.

Moreover, on November 1, 1983, more than one third of the Senate present voted to oppose SALT II, on a roll call vote on another Symms amendment.

In sum, the Defense Department has reported that if the U.S. continues to comply with SALT II, this will require the U.S. to destroy 2,500 more warheads on highly survivable Poseidon submarines. Such massive U.S. unilateral disarmament under SALT II will completely undercut all remaining military, economic, and political arguments for your own SDI and Strategic Modernization Program.

We request that you advise us as to whether you will allow SALT II to expire on December 31, 1985.